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AND MARINE INSURANCE
COMPANY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

EMPIRE FIRE AND MARINE
INSURANCE COMPANY, an Illinois
corporation,

Plaintiffs,

v.

GILBERT POGHOSYAN, an
individual; SADAF SADEGHI, an
individual; CESAR HILARIO PRADO
BARRIOS, an individual; and DOES 1-
100,

Defendants.

Case No.

**COMPLAINT FOR
DECLARATORY RELIEF, FRAUD
AND UNJUST ENRICHMENT;
DEMAND FOR JURY TRIAL**

Plaintiff Empire Fire and Marine Insurance Company ("Empire") hereby
alleges:

1. This is an action for a declaratory judgment pursuant to 28 U.S.C.
section 2201-2202. Plaintiff Empire seeks this Court's determination concerning the
respective rights and obligations of the parties under an insurance policy issued by
Empire to Defendant Hilario Barrios with respect to an underlying lawsuit brought
by Defendants Gilbert Poghosyan and Sadaf Sadeghi against Barrios for an alleged

1 automobile accident. In addition, Empire seeks to recoup from the Defendants the
2 fees and costs incurred by Empire to defend and indemnify Barrios against the
3 Underlying Action which amounts are still being incurred as well as to recoup an
4 additional \$55,293.69 Empire paid to the insurer for the claimant vehicle.

5 **THE PARTIES**

6 2. Plaintiff Empire is an Illinois corporation with its principal place of
7 business in Illinois.

8 3. Defendants Gilbert Poghosyan, Sadaf Sadeghi and Cesar Hilario Prado
9 Barrios are all individuals residing in the County of Los Angeles and citizens of the
10 State of California.

11 **JURISDICTION AND VENUE**

12 4. This Court has original jurisdiction over this civil action under 28
13 U.S.C. § 1332(a).

14 5. Poghosyan and Sadeghi seek damages in excess of \$75,000 in the
15 Underlying Action. Empire seeks monetary damages for the fees and costs it has
16 already incurred to defend the Underlying Action which are in excess of \$75,000 as
17 well as all future fees and costs incurred as well as the \$55,293.69 Empire paid to
18 the insurer for the claimant vehicle. Therefore, the amount in controversy in this
19 action exceeds \$75,000 exclusive of interest and costs.

20 6. Venue is proper in this District as the defendants reside in the County
21 of Los Angeles and the alleged auto accident occurred in Los Angeles County.

22 **THE STAGED ACCIDENT**

23 7. Barrios rented a car from Enterprise-Rent-A-Car Company of Los
24 Angeles, LLC ("Enterprise"). As part of the rental transaction, Barrios purchased
25 Supplemental Liability Protection ("SLP") from Enterprise and insured through
26 Empire under policy no. RSI5525807-08 (the "policy").

27 8. Barrios, Poghosyan and Sadeghi assert that they were involved in a
28 motor vehicle accident on April 26, 2020 with Barrios in the rented car striking a

1 Ferrari occupied by Poghosyan and Sadeghi on La Tuna Canyon Blvd near the 210
2 Freeway in Tujunga, County of Los Angeles, California. Empire is informed and
3 believes that the accident was staged with the intent for the Defendants to file a
4 fraudulent insurance claim with Empire.

5 9. Among the evidence available so far that the accident was staged is the
6 following:

7 a. There are suspicious discrepancies and contradictions between
8 Barrios' recorded statement to Empire's third-party administrator and his testimony
9 during an examination under oath, including but not limited to the following:

- 10 • Barrios provided contradictory explanations as to the reasons
11 to be driving at or near the location where the collision
12 allegedly occurred;
- 13 • Barrios provided inconsistent reasons why he rented a vehicle
14 from Enterprise;
- 15 • Barrios stated as one of the reasons to rent the vehicle from
16 Enterprise was that at the time of the accident, his own vehicle
17 was parked at his home with a leak; however, the vehicle
18 search results showed that Defendant's vehicle was parked at a
19 business address that was not his home;
- 20 • Barrios' description of his visibility immediately before the
21 accident is inconsistent with the layout of the accident scene.

22 b. Multiple indicators of organized fraud activity are present in this
23 case, including amongst other, the following:

- 24 • The vehicle was rented on April 24, 2020, with a return date of
25 April 27, 2020, and Barrios purchased from Enterprise a high
26 liability limits policy for the rental vehicle most likely
27 inconsistent with his employment, income, and/or lifestyle.
- 28 • The damages to Defendants' vehicles are inconsistent with the

1 alleged speed and circumstances of the accident.

- 2 • The alleged accident occurred at night in an isolated area
- 3 without much traffic.
- 4 • None of the Defendants contacted the police at the time of the
- 5 accident despite one of the cars being involved, a Ferrari, worth
- 6 about \$100,000;
- 7 • Despite the alleged magnitude of the accident, Barrios has
- 8 testified that the parties exchanged information for about 5-10
- 9 minutes and left the scene
- 10 • Barrios could not provide a consistent reason why he rented the
- 11 vehicle;
- 12 • Barrios does not appear to have been truthful in his statements
- 13 after the accident;
- 14 • The individual that picked up Poghosyan and Sadeghi from the
- 15 accident scene lives at the same address as a close associate of
- 16 Barrios.

17 10. Poghosyan and Sadeghi filed a lawsuit against Barrios in the Los
 18 Angeles Superior Court case number 21STCV15714 for damages they claimed they
 19 sustained in the staged accident (the "Underlying Action"). Empire is defending
 20 Barrios against the Underlying Action under a reservation of rights. Empire sought
 21 leave of the Superior Court to intervene in the Underlying Action but the Superior
 22 Court denied Empire's request.

23 **FIRST CLAIM FOR RELIEF FOR DECLARATORY RELIEF**

24 **(Against All Defendants)**

25 11. Plaintiff re-alleges and incorporates all preceding paragraphs into this
 26 claim for relief as though set out in full herein.

27 12. Plaintiff asserts that the alleged accident was staged and therefore, there
 28 is no coverage for the Underlying Action under the Empire insurance policy.

1 Defendants assert that the accident was not staged and therefore, there is coverage
2 for the accident.

3 13. Furthermore, the Policy provides in pertinent part: Section 1 – Liability
4 Insurance, A. Coverage, section 1: this policy provides excess auto liability
5 insurance and only applies to a "loss" involving "bodily injury" and "property
6 damage" caused by an "accident" and from the use of a covered "rental vehicle".

7 14. Plaintiff asserts that any alleged bodily injury or property damage was
8 not caused by an accident.

9 15. As such, a present and actual controversy exists between Defendants
10 and Plaintiff. Plaintiff seeks a declaration that there is no coverage under the Empire
11 policy for the Underlying Action and that it is entitled to withdraw its defense of
12 Barrios against the Underlying Action.

13 **SECOND CLAIM FOR RELIEF FOR FRAUD**

14 **(Against All Defendants)**

15 16. Plaintiff re-alleges and incorporates all preceding paragraphs into this
16 claim for relief as though set out in full herein.

17 17. Defendants falsely represented that the accident was real when in fact it
18 was staged. At the time that Defendants made these representations and/or
19 omissions, Defendants knew that said representations were false and intended that
20 Plaintiff would rely thereon to induce Plaintiff to provide coverage for the
21 Underlying Action.

22 18. These misrepresentations and/or omissions were material to Plaintiff's
23 agreement to defend Barrios against the Underlying Action.

24 19. As a result of these fraudulent misrepresentations and omissions,
25 Plaintiff paid the insurer for the claimant vehicle for property damage in the amount
26 of \$55,293.69.

27 20. Furthermore, Plaintiff incurred fees and costs to process the insurance
28 claim and to defend Barrios against the Underlying Action.

21. These fees and costs are ongoing. As of the date of the filing of this Complaint these fees and costs exceed \$22,000.00.

22. By engaging in intentional insurance fraud, Defendants have acted with oppression, fraud and malice entitling Plaintiff to an award of punitive damages.

THIRD CLAIM FOR RELIEF FOR UNJUST ENRICHMENT

(Against All Defendants)

23. Plaintiff re-alleges and incorporates all preceding paragraphs into this claim for relief as though set out in full herein.

24. Defendants unjustifiably received the benefits of the Empire policy by staging the accident. Defendants have wrongfully retained these insurance benefits. It would be unjust and unconscionable to permit Defendants to be enriched at Empire's expense. As such Empire is entitled to recoup from Defendants the reasonable value of all of the insurance benefits paid.

WHEREFORE, Plaintiff prays for judgment as follows:

1. For monetary damages in an amount to be determined at trial but exceeding \$77,293.69.

2. For a declaration that there is no defense or indemnity owed to Defendants under the Empire policy including no monies owed to satisfy minimum financial liability for the Underlying Action;

3. For punitive damages;

4. For costs of suit; and

5. For such other and further relief as the court deems just and proper.

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1 DATED: March 31, 2023

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

2
3
4 By: 

5 Rodrigo Bozoghlian
6 John Hochhausler
7 Attorneys for Plaintiff,
8 EMPIRE FIRE AND MARINE
9 INSURANCE COMPANY

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff demands a jury trial.

12 DATED: March 31, 2023

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16 Rodrigo Bozoghlian
17 John Hochhausler
18 Attorneys for Plaintiff,
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